DOCUMENT RESUME

ED 092 998 CS 500 724

AUTHOR Forston, Robert F.
TITLE Judicial Communication Theory for Pre-Law Students.
PUB DATE Mar 74
NOTE 12p.; Paper presented to the Annual Meeting of the Eastern Communications Association (Washington, D.C., March 21, 1974)

EDRS PRICE MF-$0.75 HC-$1.50 PLUS POSTAGE
DESCRIPTORS College Curriculum; *Communication (Thought Transfer); *Curriculum Planning; Higher Education; *Law Instruction; *Speech Curriculum; *Theories; Undergraduate Study
IDENTIFIERS *Prelaw Curriculum

ABSTRACT

In explaining the pre-law recruitment campaign and curriculum plans of the Speech Communication Department at Drake University, this paper places emphasis on the department's broader eclectic approach to human behavior and communication theory as it relates to law and other aspects of life. The curriculum for the pre-law communication major is flexible to meet the needs of the student and is planned with the student and his major advisor. The program includes approximately 36 credits of communication courses; 15 credits of requirements from English, psychology, and American history; 40 credits of a correlated complement for law school developed by the advisor and advisee from accounting, economics, political science, sociology, and English; 9-18 credits of an introduction to legal subjects for undergraduates in constitutional law, administrative law, and business law; and 15-24 credits in various elective subjects. (RB)

ED 092998

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION
THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

BEST COPY AVAILABLE

JUDICIAL COMMUNICATION THEORY FOR PRE-LAW STUDENTS

PERMISSION TO REPRODUCE THIS COPYRIGHTED MATERIAL HAS BEEN GRANTED BY
Robert F. Forston
TO ERIC AND ORGANIZATIONS OPERATING UNDER AGREEMENTS WITH THE NATIONAL INSTITUTE OF EDUCATION. FURTHER REPRODUCTION OUTSIDE THE ERIC SYSTEM REQUIRES PERMISSION OF THE COPYRIGHT OWNER

ROBERT F. FORSTON

Speech Communication Department

Drake University

Des Moines, Iowa

Paper presented to the Eastern Communications Association Convention, Washington, D.C., March 21, 1974.

CS 500 724

BEST COPY AVAILABLE

I

As a department chairman and as a member of the Association of Departments and Administrators in Speech Communication, I am well aware that the age of cost accounting by university administrators has arrived. This reality with declining or stabilizing enrollments means that departments must be sensitive to the numbers game--that is the number of academic majors served and the actual student-faculty ratio in classes. One of the many things that has been done as a result of the above reality is that departments have investigated the recruitment of students in ways not previously or fully developed. I plan to address myself to one of the ways in which our field and individual departments of Speech Communication can attract more declared majors and more students in courses.

II

It is no secret that the legal profession has mushroomed. In fact, law is the fastest-growing profession in the nation. It is estimated that today's 375,000 lawyers will almost double by 1985. Students taking the Law-School Admission Tests have increased by 297 percent from 30,500 in 1963 to 121,300 students in 1973. There are now more than 106,000 persons studying law which is said to be the largest single group in postgraduate professional education. In 1973, for the first time in history, not a single unfilled seat existed in the country's 157 ABA approved law schools. Even at this moment the admissions to law schools are at an all-time high--estimated at approximately 85,000 competing for only 37,700 openings.[1]

With such a proliferating interest in the study of law one can imagine what the interest in pre-law activities is and is likely to be in the future. I firmly believe that the time is ripe for the field of Speech Communication to actively attract a greater share of the undergraduate pre-law students. Our appeals in recruiting should be quickly commenced and directly related to the needs of this group of students.

Thus far, the fields of political science, business, English, history, and economics have been most prominently thought of as appropriate academic majors for pre-law students. Of course, no approved field or fields exist for law school preparation. The Association of American Law Schools recommends a rigorous and well-rounded education focusing on a variety of disciplines including oral and written communication.

Last year my department developed a modest Pre-Law Communication Program. We tried to show how our new program had the flexibility, content, and rigor to more than adequately prepare one for law school. Although the Pre-Law Communication Program was both new and modest in effort expended and publicity, we are pleased with the results and future prospects. Twenty percent of our majors are now in this program. To be fair, I must admit that our department only attracted about 12 percent in new majors, while the remaining 8 percent came from majors switching from another departmental program to the Pre-Law Communication Program. Next year we do not plan to be as modest in our efforts to attract more students into our new program. We are confident that our efforts will continue to yield impressive results.

Another desirable benefit of the pre-law emphasis is that the type of student attracted has been for the most part of high academic quality. I feel strongly that any recruiting program in our field should focus on obtaining the good academic student rather than just more students. Still another benefit of our department's efforts is that the percentage of pre-law students from other majors taking nine or more credits (three courses) in our department has substantially increased.

III

The past and potential future success in developing a Pre-Law Communication emphasis is probably dependent on a sustained campaign within our field. Our department at Drake University has been developing such a sustained campaign but so far it has focused primarily on students already at the university. There is a need to go outside the university to attract area college, transfer, and high school students. The recruiting task outside the university would be easier if more departments developed campaigns to show how appropriate the field of speech communication is for law school preparation. I am aware that the number of departments now offering legal communication courses is indeed increasing, e.g., Lake Forest University, the University of Delaware, Macalester College, Loyola University, the University of Utah, and Drake University.

At this time I would like to explain the nature of the sustained Pre-Law campaign that our department has and plans to implement at Drake University.

Image: Our first task has been to communicate better our philosophy of what we do and do not do in the department. We have had to reshape thinking that Speech Communication was platform speaking and forensics period. We have tried to convey our broader eclectic approach to human behavior and communication theory as it relates to law and other aspects of life.

Academic Program: The curriculum for the Pre-Law Communication major is flexible to the needs of the student and is planned with the student and his major advisor. The program includes approximately 36 credits of communication courses; 15 credits of requirements (English, psychology, and American history); 40 credits of a correlated complement for law school--developed by the advisor and the advisee (e.g., accounting, economics, political science, sociology, and English); 9-18 credits of an introduction to legal subjects (undergraduate courses--e.g., constitutional law, administrative law, and business law); and 15-24 credits for electives.

We have developed and taught two courses specifically orientated toward communication and law--a beginning communication course for Pre-Law students and a more advanced course called Judicial Communication Theory. In addition, we have a core of other courses which include specific units on aspects which relate directly to legal situations: small group communication (juries and group pressure), reasoning in communication, persuasion, parliamentary procedure, and classical rhetoric. These courses attract a substantial number of non-majors, who are interested in law including a few law students.

The beginning speech communication course for pre-law students is a survey course blending interpersonal communication and public speaking as they apply to law. Also included are units on interviewing as it applies to clients and witnesses and nonverbal communication in the courtroom.

Judicial Communication Theory Course: This course was taught during the Fall (1973) semester and included five parts: theory, observation and analysis, application, guest lectures, and research papers. The theory lectures covered a variety of topics. No attempt was made to teach law perse or courtroom forensics. The topics focused on communication skills and research as related to interviewing of clients, examination of witnesses and jurors, and negotiation; on communication theory, e.g., the sustained communication campaign in the pre-trial process, during the trial, and after the trial; and on the communication issues in the law, e.g., understandable jury instructions, written or oral jury instructions, unanimous or less than unanimous jury decisions, six or twelve member juries, symbolic conduct and the First Amendment guarantees, and the judge's function as a regulator of communication.

The observation and analysis portion of the course included selected visits, reports, and analyses of the Iowa Supreme Court, federal court, Polk County District Court, municipal court, Drake University Law School Moot Court, and video tapes of simulated jury deliberations. The students were asked to apply what they had learned as jurors in the mock trials, as witnesses in the mock trials, in civil negotiation exercises, and in other limited role

playing situations. Guest lecturers were also invited to share their knowledge, i.e., a law school Dean, a law school professor, an attorney, an assistant attorney general, and a trial judge. Students also wrote two research papers on some communication aspect of the law, e.g., witness credibility, functions of opening and closing arguments, use of objections, and symbolic conduct and freedom of speech.

Study Tour: In February of this year the department sponsored a study tour to Washington, D.C. for six days to observe and analyze the oral arguments before the United States Supreme Court and to analyze the committee work of Congressional committees. Forty-six students, most of whom were pre-law, went on the tour. They prepared prior to leaving on the trip by reading selected articles about the Supreme Court, by reading the briefs of the cases which would be heard, and by participating in a conference telephone interview with a deputy clerk of the court. While we were in Washington, D.C. they analyzed the oral arguments before the court and interviewed clerks, judicial fellows, Justice Douglas and a number of Senators and Representatives. The study tour was considered an outstanding success and helped to provide more insight into the role of communication in law.

IV

Our future sustained Pre-Law campaign will include the areas covered in III above, as well as the following:

Judicial Intern Program: The Judicial Intern Program is sponsored by the Office of the Administrative Assistant to the Chief Justice of the United States. The program offers an opportunity for highly talented students (graduate or undergraduate) in law, management, and the social sciences to gain an appreciation for the complexities of judicial administration and at the same time to contribute to the data gathering, research, and planning carried out by the judicial administrative office of the Chief Justice. Those selected for this program must be able to live in Washington, D.C. during their internship.

These internships are available on a competitive basis (one applicant per school) for the Fall, Spring, and Summer terms. The interns receive no pay. The Speech Communication Department will administer the intern applications for Drake University and will offer a semester's credit (16 hours) to those students fortunate enough to be selected for the internship.

We also are currently attempting to develop a limited judicial intern program with the Iowa Supreme Court. One or two credit hours will be available for this local internship.

Since the Speech Communication Department will administer the judicial intern programs, we will be in contact with some of the most talented Drake students who are interested in law. We have found from experience that once the students have been exposed to

the opportunities that the Pre-Law Communication program offers in the Speech Communication Department, one in ten chooses to switch his academic major to our department and approximately 40% minor in Speech Communication.

Legal Communication Event: Next year our department will include two legal communication events in the Drake University High School Invitational Forensic Tournament. These events will be as follows:

The Supreme Court Arguments: Oral arguments for or against a case developed from written briefs provided each side. Each side will have 30 minutes to argue its case, including answering questions from a panel of three judges. Judges for the initial rounds will be selected from senior law students, while the final and semi-final rounds will use judges who are law professors, attorneys, and trial judges.

The Negotiation Tournament: Plaintiff and defendant sides will negotiate a settlement in a civil case from a detailed set of facts, stipulations, etc., but each side will have an additional set of confidential facts and conditions which may affect the outcome of the settlement if the other side knew the information. Each case will be a plaintiff's case in that some settlement will be made, but the crucial issue is how much money is a satisfactory settlement. A settlement must be reached within a specified time limit (e.g. 105 minutes) or else both sides are disqualified for future rounds. The sides with the highest plaintiff awards and the sides with the lowest defendant awards will be power matched. Two winners will emerge;

the side with the top plaintiff award and the side with the most successful defendant (lowest plaintiff award).

Perhaps the American Forensic Association can be persuaded to develop and sponsor such legal communication events in order to promote the field among the proliferating numbers interested in law. My department is more likely to be successful in its sustained pre-law campaign if national leadership exists to encourage and implement pre-law programs in many Speech Communication Departments and in our regional and national communication associations. We may be able to pattern national contests in oral Supreme Court arguments or negotiations after the format used in the National Discussion Contest.

Guest Scholar Series: Our department has and will expand its guest scholar visits to emphasize communication and law at Drake University. It is important to stress that we do not have to always call upon trained lawyers and judges with J.D. degrees to be our guests. The communication field has many highly qualified experts in communication and law. For example, my department has invited Richard Rieke, Chairman of the Communication Department, University of Utah, to make two presentations to our students next month on legal communication topics.[2] Others in our field who could serve as excellent resource people to build the pre-law emphasis include those on this program--Professors Anapol, Kane, and Hayes, but I can also include W. Scott Nobles (Macalester College), Joan Kessler (Loyola University), Charles Tucker (Northern Illinois University), Gerald Miller (Michigan State University), Robert Watson (Ohio State University Law School), and

Charles D. Smith (Syracuse University). A number of experts also exist in other disciplines such as sociology, anthropology, and psychology who could be called upon as guest lecturers.

Brochure: In our department, we are currently writing a brochure which describes our Pre-Law Communication Program. We anticipate that this brochure will be helpful to our University recruiters and in our contacts with high school students.

Pre-Law Communication Workshop: My department also plans to experiment with summer Pre-Law workshops primarily for high school juniors and seniors. Perhaps this same idea might be desirable for university students. These workshops may be helpful recruiting sessions for quality students interested in our Pre-Law Communication Program.

Again, I contend that the time is ripe for the field of Speech Communication to actively work with those interested in pursuing law as a profession. We will reap benefits by developing creative and practical programs in our individual academic departments and through the regional and national communication associations providing leadership by encouraging pre-law and law programs. The time is right for us to make Speech Communication prominently thought of as an excellent academic major for those pursuing law.

FOOTNOTES

1. "America's Lawyers: A Sick Profession?" U.S. News and World Report, 76 (March 25, 1974), pp. 23-28.

2. Professor Rieke will speak April 3, 1974. His presentations are entitled: "Elements of the Trial: A Communication View" and "An Audience Centered Theory of Argumentation and Law".